

Remarks

This Amendment is in response to the Office Action mailed April 25, 2006.

Claims 10-22, 27-33 and 37-52 are pending in this application. Claims 10-22, 27, 30-32, 42-45, 47, 49 and 51 have been allowed. Claims 28, 33, 46, 48, 50 and 52 have been rejected. Claims 37-41 have been rejected under 35 USC 112, second paragraph, but contain allowable subject matter. Claim 29 has been objected to but contains allowable subject matter.

Claims 28 and 33 have herein been amended to incorporate that allowable subject matter of Claim 29. In view of the same, Claim 29 has been canceled. Claims 37-41 have been amended as discussed below. Claims 10-22, 27, 30-32 and 42-52 remain unchanged.

Claims 37-41 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for containing the trade name HT-100. In view of the same, Claims 37-41 have been amended to replace "HT-100" with a non-trade name description, thus overcoming the 112(2) rejection.

Claims 28 and 46 have been rejected under 35 U.S.C. 102(b) as being anticipated by Chen (U.S. Pre-Grant Publication No. 2002/0124388). For the following reasons, the Examiner's rejection is respectfully traversed.

Chen is not the same ("identity of invention") as the rejected claims, as required by 35 U.S.C. 102. Chen does not make, use or put an additive in a paste to make a paste product. Chen discloses a method of cooking a paste, i.e., a specific way of making battery paste by putting in a special closed heated chemical reactor at high temperatures, and further utilizing a polymer and optional surfactant..

Further, Chen's TTBLs crystals are not micronized. As can be seen in Figure 4 of Chen, TTBLs crystals are generally rectangular or brick-like in shape. As is known in the art, the particle size or length of a TTBLs crystal is typically approximately four times the width. Thus, Chen's reference to TTBLs crystals having an average width of about 2-4 μm indicates that the average particle size or length of Chen's TTBLs crystals is about 8-16 μm . Applicants' TTBLs crystals have a median particle size of approximately 0.5 to 5.0 microns.

Nonetheless, in the interest of passing this application to immediate allowance, Claim 28 has herein been amended to incorporate the subject matter of allowable Claim 29. As such, it is respectfully submitted that Claim 28 is now in condition for allowance. Claim 46, which depends from Claim 28, is likewise now

in condition for allowance. An early notice of allowance is respectfully requested.

Claims 28, 33, 46 and 48 have been rejected under 35 U.S.C. 102(b) as being anticipated by Klein et al. (U.S. Pre-Grant Publication No. 2004/0121233). Claims 50 and 52 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. For the following reasons, the Examiner's rejection is respectfully traversed.

Klein et al. is not the same ("identity of invention") as the rejected claims, as required by 35 U.S.C. 102. Klein et al.'s additive is for positive battery pastes and, contrary to Applicant's additive, comprises both TTBLs and finely divided hydrophobic silicic acid. Additionally, Klein et al.'s additive is not produced in the same or in a similar manner as is Applicant's additive.

Further, Klein et al. does not make obvious Claims 50 and 52 under 35 U.S.C. 103 for the reasons discussed above with respect to Klein et al. It is noted that the Examiner has recognized that Klein et al. does not expressly teach the weight percentages recited in the instant claims. Further, because Klein et al. does not disclose the general conditions of the rejected claims for the reasons discussed above, *In re Boesch* is inapplicable. Still

further, the instant claims are not obvious in view of Klein et al. because Klein et al. does not recognize the claimed weight percentages as a result-effective variable.

Nonetheless, in the interest of passing this application to immediate allowance, Claims 28 and 33 have herein been amended to incorporate the subject matter of allowable Claim 29. As such, it is respectfully submitted that Claims 28 and 33 are now in condition for allowance. Claims 46, 48, 50 and 52, which depend from either Claim 28 or Claim 33, are likewise now in condition for allowance. An early notice of allowance is respectfully requested.

It is respectfully submitted that none of the prior art of record, either alone or in combination, fairly teaches, suggests or discloses the novel and unobvious features of Applicants' claims as set forth herein. Accordingly, Applicants respectfully assert that the claims as presented herein are now in condition for allowance. An early notice allowance is respectfully requested.

Any arguments of the Examiner not specifically addressed should not be deemed admitted, conceded, waived, or acquiesced by Applicant. Any additional or outstanding matters the Examiner may have are respectfully requested to be disposed of by telephoning the undersigned.

The Commissioner is hereby authorized to charge any fees

which may be required to Deposit Account No. 16-0657.

A postcard is enclosed evidencing receipt of the same.

Respectfully submitted,
PATULA & ASSOCIATES, P.C.

A handwritten signature in cursive script, appearing to read "C. T. Riggs Jr.", written in dark ink.

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